

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1085**

Annadine Houle,
Appellant,

vs.

NETA Property Management, Inc., et al.,
Respondents,

Ridgeway Court II,
Respondent.

**Filed April 24, 2023
Affirmed as modified
Jesson, Judge**

Beltrami County District Court
File No. 04-CV-22-765

Rebecca Stone, Legal Services of Northwest Minnesota, Bemidji, Minnesota; and

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(for respondents NETA Property Management, Inc., et al.)

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Ridgeway Court II)

Considered and decided by Jesson, Presiding Judge; Bjorkman, Judge; and
Frisch, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

After a break-in and countless occurrences of vandalism at her apartment building, appellant Annadine Houle sought emergency relief to repair her heat, implement better security, and provide working laundry facilities at her apartment building. But Houle also requested other remedies for relief, such as retroactive and prospective rent abatement and court supervision of her apartment building. After two hearings, the district court ordered her landlord, respondents NETA Property Management, Inc., and Ridgeway Court II (collectively NETA), to restore the heat and put into action more reliable security measures to its apartment building, and then dismissed the action after a hearing on NETA's motion to dismiss. Houle appeals the dismissal of her action because the district court did not address all her requested remedies. Because the district court has clear discretion in granting remedies in emergency actions, which it did not abuse here, we affirm as modified.

FACTS

Houle is a 67-year-old tenant at one of NETA's properties, Ridgeway Court II, in Bemidji. In March 2022, Houle brought an emergency-tenant-remedies action¹ against NETA seeking emergency relief for heat, security, and laundry facilities. In addition to emergency relief, Houle asserted claims against NETA under the Minnesota Consumer

¹ Pursuant to Minnesota Statutes section 504B.381 (2022).

Fraud Act and the Minnesota Deceptive Trade Practices Act.² The following is a summary of the emergency claims and testimony from the bench trial.

Houle maintained that her apartment was uninhabitable starting in January 2022 because she did not have sufficient heat, security, or laundry facilities.³ The heat issue began after a break-in, where a rock was thrown through a glass window into the mechanical room, that led to a burst waterline and damaged boiler. This left Houle without water, heat, and electricity for about two days. According to Houle's petition, although NETA provided space heaters, the apartment temperatures during this time dipped to 20 to 30 degrees below zero. NETA did not prorate or refund Houle's rent for the days she was without water, heat, and electricity. Nor did NETA provide alternative housing.

A day or two after the break-in, the water, heat, and electricity were restored, but, according to Houle, the heat was still not sufficient for habitability. Houle claimed she had to keep her oven on and open to be able to achieve 60- to 65-degree heat in her apartment. The operations manager contested this claim, in his testimony, because no complaints about the heat had been received from other tenants and the heat runs on one system for the entire building.

² The allegations under these actions primarily related to (1) false representations by NETA in the lease of its rental property that result in unequal bargaining power between Houle and NETA and (2) willful misrepresentations that the rental property was of a particular quality when it was not, that caused confusion and misunderstanding of its tenant, Houle.

³ There were laundry facilities at the apartment complex, but individuals vandalized the machines by drilling out the locks and taking the coin boxes out, making them inoperable. NETA's operations manager testified that it ordered new machines and they were due within a week of the March 17th hearing.

In addition to the heat, Houle sought emergency relief for the lack of security at Ridgeway Court II. According to Houle's petition, NETA had failed to keep the building safe from trespassers, which is an essential building function, because the outside security door did not lock, squatters had broken into the building on numerous occasions, and there were no working security cameras. Finally, Houle requested emergency relief for laundry facilities because, although NETA advertised that they had them on site, there were no operable machines.

After providing notice of her claims—and NETA receiving an opportunity to address these concerns—Houle filed her action. A hearing was scheduled for a few days later. In her emergency-tenant-remedies-action petition, Houle requested 13 actions for relief.⁴ Some of these remedies included repairing the heat, laundry, and security, retroactive and prospective rent abatement, alternative housing, and appointing an administrator for the property.

⁴ The 13 items included: (1) NETA shall repair and restore the heat, laundry, and security; (2) if the repairs are not made, NETA shall relocate Houle and pay for her to live in an apartment, hotel, or motel with a kitchen and free laundry until the emergencies are rectified; (3) if the repairs are not made, the district court shall appoint an administrator to take over the property; (4) administrator may receive funds from a governmental body to cover the costs of repairs; (5) NETA shall be fined; (6) with fines being \$250 for first violation, \$500 for second violation, and \$750 for third violation; (7) the district court shall award retroactive and prospective rent abatement; (8) the district court shall award damages to Houle; (9) the district court shall award consequential damages to Houle; (10) the district court shall award reasonable attorney fees to Houle; (11) the district court shall award costs and disbursements to Houle; (12) the district court shall find NETA jointly and severally liable for any damages, equitable relief, or attorney fees and costs; and (13) the district court shall order other relief as deemed appropriate.

After the first hearing on March 17, 2022, the district court concluded that the loss of heat and lack of working security doors were essential services that posed a risk of danger to Houle, but that the laundry facilities were not. During the hearing, the district court specifically asked Houle, who was represented by counsel, if she wanted this hearing to “address just the emergency relief requested pertaining to those essential services; and at a later point, then address whether there has been a breach of contract and consumer fraud and those allegations at a later point?” To which Houle responded that the “hearing should just . . . address[] those issues [of heat, laundry, and security] and schedul[e] quick relief.”

After the district court granted Houle’s petition for emergency relief on the heat and security issues, it ordered NETA to fix those items by March 23, 2022. And it scheduled a follow-up hearing on March 29, 2022, to ensure NETA’s compliance with its order and to “litigate the remaining issues.” Before the next hearing, NETA filed a motion to dismiss the remaining claims, specifically the Minnesota Consumer Fraud Act and the Minnesota Deceptive Trade Practices Act claims, and to remove two individual defendants from the action.

After the follow-up hearing on March 29, 2022, the district court found that the heating issues in Houle’s apartment had been resolved, but that, although NETA made some reasonable efforts to rectify the security issue, the security of the building was still an issue. As a result, the district court ordered NETA to install a steel entrance door,

mortise locks,⁵ and an alarm system. The operations manager testified that NETA installed \$60,000 worth of brand-new surveillance systems in the apartment complex, and within a week of installing them, the camera lenses were all spray-painted black. While NETA waited for its insurance to rectify the security cameras, it had ordered mortise locks and steel doors, but their delivery had been stalled approximately four to six weeks due to COVID-19 supply shortages.

In May 2022, the district court held a hearing on NETA's motion to dismiss. NETA argued that the remaining claims unrelated to the emergency concerns must be dismissed because they cannot be brought and heard under the emergency-tenant-remedies-action statute.⁶ The district court agreed with NETA. In a June 2022 order, the district court granted NETA's motion to dismiss the two remaining claims, reasoning that under the emergency-tenant-remedies action, Houle could only request relief for emergencies, and was not entitled to seek relief on other grounds, such as those provided under the Minnesota Consumer Fraud Act and the Minnesota Deceptive Trade Practices Act. In addition to dismissing those two claims, the district court dismissed Houle's entire emergency action.⁷

Houle requested reconsideration of the district court's June 2022 order for two reasons: (1) for the district court to limit its dismissal to the two consumer claims and (2) to permit Houle to proceed to trial on her remaining claims for relief, such as rent abatement

⁵ A mortise lock is a lock that is inside the edge of a door, so that it cannot be seen or removed when the door is closed.

⁶ See Minn. Stat. § 504B.381.

⁷ The district court's order does not specify if the action was dismissed with or without prejudice or which Minnesota Rule of Civil Procedure it dismissed Houle's action under.

and continued monitoring of NETA by the district court to ensure compliance with its orders. The district court denied reconsideration, reasoning Houle had an opportunity to address both items. Further, it stated that “motions for reconsideration are not opportunities for presentation of facts or arguments available when the prior motion was considered . . . [or] to ‘expand’ or ‘supplement’ the record on appeal.”

Houle appeals.

DECISION

Houle asserts that the district court abused its discretion when it dismissed her entire emergency action without explicitly deciding on each requested remedy from her emergency-tenant-remedies-action petition.⁸ The district court, in denying reconsideration of Houle’s emergency action and the alleged remaining remedies, reasoned that Houle had ample opportunity to litigate the applicable remedies for the emergency action and chose to focus on the emergency concerns. We review the district court’s dismissal of Houle’s emergency-tenant-remedies action for an abuse of discretion. *Minn. Humane Soc’y v. Minn. Federated Humane Soc’ys*, 611 N.W.2d 587, 590 (Minn. App. 2000).

Minnesota Statutes section 504B.381 governs an emergency-tenant-remedies action. Specifically, this statute states that a “person authorized to bring an action under section 504B. 395, subdivision 1, may petition the court for relief in cases of emergency involving the loss of . . . heat . . . sanitary facilities, or other essential services or facilities that the landlord is responsible for providing.” Minn. Stat. § 504B.395, subd. 1 (2022). A

⁸ Houle does not challenge the district court’s dismissal of her two consumer claims under the Minnesota Consumer Fraud Act and the Minnesota Deceptive Trade Practices Act.

person is authorized to bring this type of action if they are a tenant of a residential building in which a violation of any state, county, or city health and safety code or basic covenants of habitability are alleged to exist. Minn. Stat. §§ 504B.395, subd. 1(1), 504B.001, subd. 14 (2022). And “the court *may* order relief as provided in section 504B.425.” Minn. Stat. § 504B.381, subd. 5 (emphasis added). Section 504B.425 (2022) further cements the district court’s discretion in determining remedies under the statute. *See* Minn. Stat. § 504B.425(a) (2022) (stating that if the court finds that the claims in the emergency petition have been proven, “it *may, in its discretion*, take any of the actions described” (emphasis added)). Some of the remedies listed under this section include:

- Ordering the landlord to remedy the violations found by the court to exist;
- Appointing an administrator to take control of the residential property; and
- Ordering continuation of court supervision of the residential property for one year to ensure the landlord is maintaining the building in compliance with the local laws.

Id., (b), (d), (f) (2022). And the court “may grant any other relief that it deems just and proper” if none of the listed remedies would fix the emergent concerns. *Id.*, (g) (2022).

Turning to the circumstances here, the district court did not abuse its discretion in dismissing Houle’s emergency-tenant-remedies action without addressing every remedy requested on her petition because the district court granted the relief it deemed appropriate to fix the emergent concerns, and Houle had the opportunity to litigate her remaining remedies in three separate hearings. We acknowledge that the district court’s orders did not include detailed evaluations of all the remedies that Houle requested, but this is not

required. Under Minnesota Statutes section 504B.425, the district court has considerable discretion in granting remedies to tenants under an emergency-tenants-remedies action. And the district court, in analyzing Houle's concerns, hearing testimony relating to those concerns, and evaluating her petition, granted relief under Minnesota Statutes section 504B.425(b) as it deemed appropriate—by ordering NETA, as the landlord, to remedy the heat and security issues—essential services of a residential building. Also, the district court issued two orders requiring NETA to repair the heat and implement better security. And the court reviewed NETA's compliance with the first order and found that the heat issue had been fixed and ordered further efforts by NETA on the security issue—to install mortise locks and steel doors to its main entrances. Thus, the district court properly utilized its discretion in granting Houle remedies for her emergency petition.

Additionally, Houle had three hearings to address the 13 requests for relief in her petition. At the first hearing, Houle did not call any witnesses or argue on further remedies outside of the repairs to the heat and security. Moreover, in response to the district court's inquiry regarding whether Houle wanted the hearing to be limited to the emergency concerns, Houle answered in the affirmative stating "[t]oday's hearing should just be about addressing those issues and scheduling quick relief." And the court asked Houle if there was "anything else you would like to say at this time? I know you are relying on the documents submitted. Anything else?" And Houle responded, "No, Your Honor."

After the district court granted Houle's emergency-relief petition, Houle was able to interject and "make additional requests for relief or suggestions for relief." But in doing so, she discussed only the laundry issue and NETA's deadlines for compliance with the

court's order, with a request for alternative housing in the event NETA did not comply. Houle did not discuss rent abatement or any other specific remedies. At the end of the hearing, the court gave another opportunity for Houle to discuss other remedies by asking, "Anything else that needs to be addressed today?" And Houle responded, "No, Your Honor."

At the second hearing, Houle had a similar opportunity to address additional remedies. Again, she declined to do so. After the court reviewed NETA's compliance with the first order to repair heat and security, Houle requested additional remedies in the event NETA did not implement sufficient security measures in a timely manner. The district court stated it would take Houle's other remedies under advisement before issuing a second order. Then the court scheduled a third hearing to discuss NETA's motion to dismiss the remaining fraud and deceptive-trade-practice claims.

Before the third hearing, Houle had the opportunity to brief and argue in response to NETA's motion to dismiss. And although Houle summarily mentioned in her brief that the motion hearing should include all her claims and relief from her petition, she did not argue about any of her additional requested remedies either in her brief or at the hearing.

In sum, the district court did not abuse its discretion in dismissing Houle's emergency-tenant-remedies action after granting appropriate emergency relief for her apartment building's heat and security because the court has the discretion to grant remedies it sees fit for emergency petitions and Houle had three hearings to litigate any additional remedies and did not do so. But since the district court in its order did not specify

whether Houle’s action was dismissed with or without prejudice,⁹ we affirm the district court’s decision but—given the limited nature of this emergency-tenant-remedies action—modify it by specifying that Houle’s emergency-tenant-remedies action was dismissed with prejudice but her two consumer-fraud claims within that action were dismissed without prejudice.

Affirmed as modified.

⁹ Rule 41.02 of the Minnesota Rules of Civil Procedure indicates that “[u]nless the [district] court specifies otherwise in its order, a dismissal” from NETA’s motion that Houle did not show a right to relief “operates as an adjudication upon the merits.” Minn. R. Civ. P. 41.02(b)-(c). Which is considered a dismissal with prejudice. But NETA’s motion to dismiss pertained to Houle’s two consumer-fraud claims, and the district court specified in its order that “[Houle]’s recourse, therefore, would be to file civil action(s), which are not limited by any remedy procured under the Emergency Tenant Remedy Act.” As a result, we take this reasoning by the district court to be it “specifying otherwise” that Houle’s two consumer-fraud claims were dismissed without prejudice to allow Houle to bring those claims, if she so chooses, in a proper civil action, not within an emergency-tenant-remedies action. Minn. R. Civ. P. 41.02(c).